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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/060,757	01/29/2002	Kelan C. Silvester	42390P13000	8213

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EXAMINER

JUNG, MIN

ART UNIT	PAPER NUMBER
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2616

MAIL DATE	DELIVERY MODE
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05/03/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/060,757

Applicant(s)

SILVESTER, KELAN C.

Examiner

Min Jung

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 March 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6-14, 16-22, 24 and 25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-14, 16-22, 24 and 25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-4, 6-14, 16-22, 24-25 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The specification fail to describe 'when a device communications mode state indicates a mode of the device is a wired communication mode, determining the data transmission error rate of the device by querying a data transmission error rate state'. The specification, while teaching the determination of a data transmission error rate of the device during operation of the device in a wireless communications mode, fails to teach the same determination during operation of the device in a wired communications mode. The determination of a data transmission error rate of a device when the device is operating in a wired mode would not be inherent or implied in the teaching because such determination would require a totally different detection and determination process. If an error rate determination for the wired communication per se is intended by the limitation, such teaching is absent in the specification. If an error rate determination for the wireless link while the actual

communication being performed under the wired mode of operation is intended by the limitation, such teaching is absent as well. Further, specifically, there is no disclosure for "querying a data transmission error rate state".

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 9-11, 19-21, 24, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen, US PG Pub. 2003/0071783 (Chen) in view of Jordan et al., US 6,397,061 (Jordan).

Chen discloses wire/wireless dual mode operating input device.

Regarding claims 1, 9, 10, 11, 19, 20, 24, and 25, Chen teaches detecting a communications mode of the device as one of wireless communications mode and a wired communications mode (detection is inherently done by the user, see [0023]-[0026]); determining a data transmission quality of the device during operation of the device in the wireless communication mode ([0026] and [0030]); and switching the device from the wireless communication mode to a wired communication mode when the data transmission quality exceeds a predetermined threshold (user selects the

preferred mode, [0026] and [0030]). Chen further teaches wireless interface (RF output unit 12 and antenna 120), and wired interface (the wire connecting port 15). See Fig. 4. Chen further teaches host device as shown in Fig. 3. Chen fails to specifically teach the determination of a data transmission error rate, and the notification step. Chen, however, teaches that the communication mode is switched when the interference in radio frequency is too disruptive for use in the wireless communication mode. It is well known in the field of the invention that one way of determining interference is by determining transmission error rate. Jordan teaches notifying a user of wireless communication device using an indicator, either visual or audio indication. See col. 2, lines 41-45. Jordan also teaches that determination for sufficient interference could be made by a bit error rate threshold, and that an alert can be indicated at both wireless communication device and the master device within the wireless network. See col. 3, lines 10-19. Therefore, it would have been obvious for one of ordinary skill in the art at the time of the invention to implement Chen's teaching by employing the well-known error rate determination scheme for determining the interference level, and to employ the user notification function taught by Jordan in order to build a user friendly system using available functions.

Regarding claim 21, Chen further teaches the processor (11), communication interface (12 and 120), connection port (15), wired/wireless detection unit (auto switch 13) in addition to the recited functions as addressed above. Chen fails to specifically teach a storage device storing instructions to cause the processor to perform the recited functions. Chen, however, teaches the functions as addressed above. For the processor

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to perform the necessary functions it would require a set of instruction either built-in in the processor or separately accessible through a storage device. Therefore, it would have been obvious for one of ordinary skill in the art at the time of the invention to include a storage device in Chen for storing a set of instructions for the processor to carry out its required functions.

Response to Arguments

6. Applicant's arguments with respect to claims 1-4, 6-14, 16-22, 24-25 have been considered but are moot in view of the new ground(s) of rejection.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Min Jung whose telephone number is 571-272-3127. The examiner can normally be reached on Monday through Friday 9:00 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wellington Chin can be reached on 571-272-3134. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MJ
April 20, 2007


Min Jung
Primary Examiner